



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.03.2020

CORAM:

THE HONOURABLE MR. JUSTICE P. VELMURUGAN

CRP NPD (MD) No. 336 of 2020

and

CMP (MD) No. 1925 of 2020

1. Govindarajan

2. G. Maheshwari

.. Petitioners

Vs.

J. Ganesan

... Respondent

Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act against the fair order and executable order passed in R.C.A.No.52 of 2017 by the Principal Subordinate Judge, Madurai dated 08.08.2019 confirming the order dated 21.08.2017 in R.C.O.P.No.38 of 2013 passed by the Principal District Munsif, Madurai Town.

For Petitioners : Mr.M.Rajaraman

For Respondent : Mr.N.Vallinayagam

ORDER

The petitioners are the tenants and the respondent is the landlord. The landlord filed a petition in R.C.O.P.No.38 of 2013 on the file of the Rent Controller/Principal District Munsif, Madurai Town, on the grounds of demolition and reconstruction of the building in question. The Rent Controller after giving opportunity of hearing to both the parties and after enquiry, passed the order of eviction on the ground of demolition and reconstruction as sought for by the landlord. Challenging the said order, the petitioners herein/tenants filed an appeal before the Principal Subordinate Judge, Madurai/Rent Control Appellate Authority in RCA.No.52 of 2013. The Rent Control Appellate Authority, after hearing the arguments of both sides, dismissed the appeal, confirming the order passed by the Rent Controller. Challenging the said dismissal order, the petitioners are before this Court by filing this Civil Revision Petition.

2. The learned counsel for the petitioners would submit that they have been paying the rent from the date of entering into the tenancy agreement to till date and there is no wilful default and even the petitioners are ready to pay the rent, if any fair rent is fixed by the respondent. The respondent seeks eviction of the

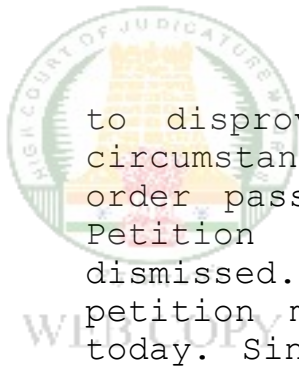


property on the ground of demolition and reconstruction to construct a multi storied building, which is prohibited by the local authority and therefore, he cannot seek such a relief. Under these circumstances, the grounds raised by the respondent/landlord are not genuine. The Rent Controller as well as the Rent Control Appellate Authority failed to consider these aspects and mechanically passed the order of eviction and therefore, the same warrants interference by this Court.

3. The learned counsel for the respondent would submit that even from the year 2013, the respondent/landlord is expressing his requirement for eviction of the petition mentioned building for demolition and reconstruction, since the building is very old. He has also filed the relevant documents regarding the construction of new building. The Rent Control Appellate Authority, considering the requirement of the respondent/landlord and also considering the oral and documentary evidence produced by him, has rightly allowed the appeal, confirming the order passed by the Rent Controller. Since the requirement of the landlord is *bona fide*, both the Courts have given concurrent finding, granting the relief as sought for by the respondent/landlord. The learned counsel would further submit that an Execution Petition is also filed and same is pending and in order to protract the proceedings, the present revision is filed. There is no merit in the petition and the same is liable to be dismissed.

4. Admittedly, the petitioners are the tenants and the respondent is the landlord. The eviction petition has been filed before the Rent Controller in the year 2013 and the same was pending from 2013 - 2017. The Rent Controller had come to the conclusion that the requirement of the landlord/respondent is *bona fide* and the petitioners have not challenged the means and capacity of the respondent for demolition and reconstruction. The only defence taken by the petitioners is that the petition mentioned property is a notified area by the local authorities and no multi storied can be constructed in the premises and therefore, the requirement of the landlord is not *bona fide*. But, it is the matter between the local authority and the landlord. If the local authority is not approving the plan, the petitioner can modify the plan and resubmit the same and thereafter get the permission, otherwise, it is for the petitioner to approach the local authority seeking their relief and the tenants cannot dictate terms to the landlord.

5. At this juncture, this Court has to see whether the requirement sought by the landlord is *bona fide* or not. On reading of the materials and the orders passed by both the Rent Controller and the Rent Control Appellate Authority, it is seen that the requirement of the landlord is *bona fide* and there is no evidence



to disprove the same by the petitioners/tenants. Under these circumstances, this Court does not find any perversity in the order passed by both the Courts below and this Civil Revision Petition is liable to be dismissed and accordingly it is dismissed. The petitioner is directed to vacate and hand over the petition mentioned building within a period of one month from today. Since the proceedings is pending from the year 2013, the Execution Court is directed to proceed with the Execution Petition in accordance with law and dispose of the same within a period of one month. No costs. Consequently, CMP(MD)No.1925 of 2020 is closed.

Sd/-

Assistant Registrar(CS-III)

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Sub Assistant Registrar(CS)

mj

To

1.The Principal Subordinate Judge,
(Rent Control Appellate Authority), Madurai

2.The Principal District Munsif,
(Rent Controller), Madurai Town.

+1 CC to M/s.M.RAJARAMAN, Advocate (SR-10896[F]

+1 CC to M/s.N.VALLINAYAGAM, Advocate (SR-10989[F]

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